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Attorney for Plaintiffs

HTTMT GROUP LLC, SECRET EQUIPMENT INC., XKH GROUP INC., AND HK MOTO INC.

**UNITED STATE DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA**

HTTMT GROUP LLC, SECRET EQUIPMENT
 INC., XKH GROUP INC., AND HK MOTO INC.

Plaintiffs,

vs.

Arlen Ness Enterprises, Inc.,

Defendant.

Case No.: 22-cv-1656

ANSWER TO COUNTERCLAIMS

Plaintiffs, HTTMT GROUP LLC, *d/b/a* HTTMT on Amazon.com (Store ID A1OOGIT8L9BL7B), SECRET EQUIPMENT Inc. *d/b/a* Secret E on Amazon.com (Store ID AU47PMH7TBVX6), XKH GROUP Inc., *d/b/a* XKHmoto on Amazon.com (Store ID A18132C77AG5IR), and HK MOTO Inc., *d/b/a* HK MOTO INC on Amazon.com (Store ID A1T7DIMHB0ZNRO) (collectively “Plaintiffs”), by and through their Counsel, answer Counterclaims brought by Defendant Arlen Ness Enterprises, Inc., (hereinafter “Defendant”).

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ANSWER TO NATURE OF THE ACTION

1. Plaintiffs are not required to admit or deny the allegations in ¶ 1 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

ANSWER TO THE PARTIES

2. Plaintiffs admit only that Arlen Ness is a California corporation with a principal office located at 6050, Dublin Blvd., Dublin California 94568. Plaintiffs deny the remaining allegations in ¶ 2.

3. Plaintiffs admit only that HTTMT Group LLC d/b/a HTTMT (hereinafter, "HTTMT") is a California limited liability company. Plaintiffs deny the remaining allegations in ¶ 3.

4. Plaintiffs admit.

5. Plaintiffs admit only that XKH is a California corporation and that it owns and operates the Amazon online store with Store ID A18132C77AG5IR. Plaintiffs deny the remaining allegations.

6. Plaintiffs admit only that HK Moto Inc. ("HK") is a California corporation with a principal office located at 2910 S. Archibald Ave., Ste A, #103, Ont., CA 91761. Plaintiffs deny the remaining allegations.

ANSWER TO JURISDICTION

7. Plaintiffs are not required to admit or deny the allegations in ¶ 7 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

8. Plaintiffs are not required to admit or deny the allegations in ¶ 8 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

ANSWER TO VENUE

9. Plaintiffs are not required to admit or deny the allegations in ¶ 9 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

ANSWER TO BACKGROUND FACTS

10. Plaintiffs lack knowledge of information to admit or deny the allegations in ¶ 10. To the extent that a response is otherwise required, Plaintiffs deny the allegations.

11. Plaintiffs lack knowledge of information to admit or deny the allegations in ¶ 11. To the extent that a response is otherwise required, Plaintiffs deny the allegations.

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12. Plaintiffs lack knowledge of information to admit or deny the allegations in ¶ 12. To the extent that a response is otherwise required, Plaintiffs deny the allegations.

13. Plaintiffs lack knowledge of information to admit or deny the allegations in ¶ 13. To the extent that a response is otherwise required, Plaintiffs deny the allegations.

14. Plaintiffs lack knowledge of information to admit or deny the allegations in ¶ 14. To the extent that a response is otherwise required, Plaintiffs deny the allegations.

15. Plaintiffs lack knowledge of information to admit or deny the allegations in ¶ 15. To the extent that a response is otherwise required, Plaintiffs deny the allegations.

16. Plaintiffs lack knowledge of information to admit or deny the allegations in ¶ 16. To the extent that a response is otherwise required, Plaintiffs deny the allegations.

17. Plaintiffs lack knowledge of information to admit or deny the allegations in ¶ 17. To the extent that a response is otherwise required, Plaintiffs deny the allegations.

18. Plaintiffs lack knowledge of information to admit or deny the allegations in ¶ 18. To the extent that a response is otherwise required, Plaintiffs deny the allegations.

19. Plaintiffs lack knowledge of information to admit or deny the allegations in ¶ 19. To the extent that a response is otherwise required, Plaintiffs deny the allegations.

20. Plaintiffs lack knowledge of information to admit or deny the allegations in ¶ 20. To the extent that a response is otherwise required, Plaintiffs deny the allegations.

21. Plaintiffs lack knowledge of information to admit or deny the allegations in ¶ 21. To the extent that a response is otherwise required, Plaintiffs deny the allegations.

ANSWER TO Arlen Ness's DEEP CUT® Mark

22. Plaintiffs deny the allegations in ¶ 22.

23. Plaintiffs deny the allegations in ¶ 23.

24. Plaintiffs deny the allegations in ¶ 24.

25. Plaintiffs deny the allegations in ¶ 25.

26. Plaintiffs deny the allegations in ¶ 26.

27. Plaintiffs deny the allegations in ¶ 27.

28. Plaintiffs lack knowledge of information to admit or deny the allegations in ¶ 28. To the extent that a response is otherwise required, Plaintiffs deny the allegations.

29. Plaintiffs admit that Defendant registered the DEEP CUT mark in Classes 7 and 12 before the USPTO on January 1, 2019 and that Defendant has provided Exhibit 2, which appears to be a registration certificate of Deep Cut.

30. Plaintiffs are not required to admit or deny the allegations in ¶ 30 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

ANSWER TO The Arlen Ness “A” Logo

31. Plaintiffs admit that Defendant has registered what appeared to be an “A” logo mark and that Defendant has provided Exhibit 3.

32. Plaintiffs are not required to admit or deny the allegations in ¶ 32 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

ANSWER TO Arlen Ness’s United States Design Patent No. D522,942

33. Plaintiffs admit.

34. Plaintiffs admit.

35. Plaintiffs admit.

36. Plaintiffs admit only that Defendant has provided Exhibit 4.

ANSWER TO Arlen Ness’s United States Design Patent No. D570,755

37. Plaintiffs admit.

38. Plaintiffs admit.

39. Plaintiffs admit.

40. Plaintiffs admit only that Defendant has provided Exhibit 5.

ANSWER TO Arlen Ness’s Utility Patent U.S. 6,374,815

41. Plaintiffs admit.

42. Plaintiffs admit that the ‘815 Patent expired on January 4, 2021. Plaintiffs lack knowledge of information to admit or deny the remaining allegations in ¶ 42. To the extent that a response is otherwise required, Plaintiffs deny the remaining allegations in ¶ 42.

43. Plaintiffs deny the allegations in ¶ 43.

44. Plaintiffs admit only that Defendant provided Exhibit 6.

ANSWER TO Counterfeiting Is A Significant Problem the U.S.

45. Plaintiffs lack knowledge of information to admit or deny the allegations in ¶ 45. To the extent that a response is otherwise required, Plaintiffs deny the allegations.

46. Plaintiffs lack knowledge of information to admit or deny the allegations in ¶ 46. To the extent that a response is otherwise required, Plaintiffs deny the allegations.

47. Plaintiffs admit only that Defendant has provided Exhibit 8. Plaintiffs lack knowledge of information to admit or deny the remaining allegations in ¶ 47. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

48. Plaintiffs lack knowledge of information to admit or deny the allegations in ¶ 48. To the extent that a response is otherwise required, Plaintiffs deny the allegations.

49. Plaintiffs lack knowledge of information to admit or deny the allegations in ¶ 49. To the extent that a response is otherwise required, Plaintiffs deny the allegations.

ANSWER TO The Internet Store Owners' Counterfeit Operation

50. Plaintiffs admit only that they have Chinese manufacturers to produce certain goods and deny the remaining allegations in ¶ 50.

51. Plaintiffs admit only that Defendant has provided Exhibit 9 and deny the remaining allegations in in ¶ 51.

52. Plaintiffs admit that HK MOTO INC. has HONGHAI HU as its incorporator and agent, that XKH GROUP INC. has HONGBIN HU as its incorporator and agent, and that SECRET EQUIPMENT INC. has TIEZHUAN HU as its incorporator and agent. Plaintiffs admit that Defendant has provided Exhibit 10 and deny the remaining allegations.

53. Plaintiffs deny.

54. Plaintiffs deny.

55. Plaintiffs admit only that Defendant has provided Exhibit 10 and deny the remaining allegations.

56. Plaintiffs admit only that Defendant has provided Exhibit 10 and deny the remaining allegations.

57. Plaintiffs admit that Defendant has provided Exhibit 11. However, Plaintiffs lack knowledge of information to admit or deny the remaining allegations in ¶ 57. To the extent that a response is otherwise required, Plaintiffs deny the allegations.

58. Plaintiffs admit only that they imported certain products from China and deny the remaining allegations.

59. Plaintiffs admit that the undersigned represent them in this case.

60. Plaintiffs deny.

61. Plaintiffs admit that their owners reside in China and deny the remaining allegations.

62. Plaintiffs deny.

63. Plaintiffs admit that Defendant has provided Exhibit 12 and deny the remaining allegations.

64. Plaintiffs deny.

65. Plaintiffs admit that Defendant has provide Exhibit 13 and deny the remaining allegations.

66. Plaintiffs admit that Defendant has provide Exhibit 14 and deny the remaining allegations.

67. Plaintiffs deny.

ANSWER TO The Internet Store Owners' Sale of Counterfeit and Infringing Arlen Ness®

Products

68. Plaintiffs lack knowledge of information to admit or deny the allegations in ¶ 68. To the extent that a response is otherwise required, Plaintiffs deny the allegations.

69. Plaintiffs lack knowledge of information to admit or deny the allegations in ¶ 69. To the extent that a response is otherwise required, Plaintiffs deny the allegations.

70. Plaintiffs admit that Defendant has provided Exhibit 15 and deny the remaining allegations.

71. Plaintiffs deny.

72. Plaintiffs admit that Defendant has provided Exhibit 16 and deny the remaining allegations.

73. Plaintiffs admit that Defendant has provided Exhibit 17 and deny the remaining allegations.

74. Plaintiffs deny.

75. Plaintiffs admit that Defendant has provided Exhibits 18 and 19 and deny the remaining allegations.

76. Plaintiffs admit that Defendant has provided Exhibit 20.

1 77. Plaintiffs deny.

2 **ANSWER TO COUNT I**

3 78. Plaintiffs repeat and incorporate all responses to the foregoing paragraphs as if set forth
4 fully herein.

5 79. Plaintiffs lack knowledge of information to admit or deny the allegations in ¶ 79. To the
6 extent that a response is otherwise required, Plaintiffs deny the allegations.

7 80. Plaintiffs admit that Defendant registered the “DEEP CUT” mark and deny that this mark
8 is valid.

9 81. Plaintiffs are not required to admit or deny the allegations in ¶ 81 as they constitute legal
10 conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

11 82. Plaintiffs lack knowledge of information to admit or deny the allegations in ¶ 82. To the
12 extent that a response is otherwise required, Plaintiffs deny the allegations.

13 83. Plaintiffs deny.

14 84. Plaintiffs deny.

15 85. Plaintiffs deny.

16 86. Plaintiffs are not required to admit or deny the allegations in ¶ 86 as they constitute legal
17 conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

18 87. Plaintiffs are not required to admit or deny the allegations in ¶ 87 as they constitute legal
19 conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

20 88. Plaintiffs are not required to admit or deny the allegations in ¶ 88 as they constitute legal
21 conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

22 89. Plaintiffs are not required to admit or deny the allegations in ¶ 89 as they constitute legal
23 conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

24 **ANSWER TO COUNT II**

25 90. Plaintiffs repeat and incorporate all responses to the foregoing paragraphs as if set forth
26 fully herein.

27 91. Plaintiffs admit only that Defendant has registered what appeared to be an “A” logo mark
28 and deny the remaining allegations.

92. Plaintiffs admit only that Defendant has registered what appeared to be an “A” logo mark under Registration number 3,147,815 and deny the remaining allegations.

93. Plaintiffs lack knowledge of information to admit or deny the allegations in ¶ 93. To the extent that a response is otherwise required, Plaintiffs deny the allegations.

94. Plaintiffs deny.

95. Plaintiffs deny.

96. Plaintiffs deny.

97. Plaintiffs are not required to admit or deny the allegations in ¶ 97 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

98. Plaintiffs are not required to admit or deny the allegations in ¶ 98 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

99. Plaintiffs are not required to admit or deny the allegations in ¶ 99 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

ANSWER TO COUNT III

100. Plaintiffs repeat and incorporate all responses to the foregoing paragraphs as if set forth fully herein.

101. Plaintiffs deny.

102. Plaintiffs are not required to admit or deny the allegations in ¶ 102 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

103. Plaintiffs are not required to admit or deny the allegations in ¶ 103 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

104. Plaintiffs are not required to admit or deny the allegations in ¶ 104 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

105. Plaintiffs are not required to admit or deny the allegations in ¶ 105 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

106. Plaintiffs are not required to admit or deny the allegations in ¶ 106 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

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107. Plaintiffs are not required to admit or deny the allegations in ¶ 107 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

ANSWER TO COUNT IV

108. Plaintiffs repeat and incorporate all responses to the foregoing paragraphs as if set forth fully herein.

109. Plaintiffs are not required to admit or deny the allegations in ¶ 109 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

110. Plaintiffs are not required to admit or deny the allegations in ¶ 110 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

111. Plaintiffs are not required to admit or deny the allegations in ¶ 111 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

ANSWER TO COUNT V

112. Plaintiffs repeat and incorporate all responses to the foregoing paragraphs as if set forth fully herein.

113. Plaintiffs admit only that Defendant is the assignee and owner of '942 Patent and deny the remaining allegations.

114. Plaintiffs admit.

115. Plaintiffs admit only that since April 1, 2016, HK MOTO has offered for sale its "HONGK-4-Point Micro Chromed Mirrors Compatible with Suzuki Kawasaki Victory Harley Davidson [B01DQ06WIE]" product through its Amazon storefront (<https://www.amazon.com/HK-4-Point-Chromed-8-Kawasaki-Davidson/dp/B01DQ06WIE>) and deny the remaining allegations.

116. Plaintiffs admit only that HTTMT offers for sale its "Chrome Diamond Rear Mirrors For Harley CVO Dyna Heritage Softail Sportster new" product on its website (<https://www.httmotor.com/products/usmt378-cd>) and deny the remaining allegations.

117. Plaintiffs admit only that since May 14, 2015 HTTMT offered for sale on its "SMT-4-Point Micro Black Mirrors Compatible With Suzuki Honda Kawasaki Victory Harley Davidson [B00XM7K5XA]" product on its Amazon store (<https://www.amazon.com/motorcycle-4-Point-Mirrors-Kawasaki-Davidson/dp/B00XM7K5XA?th=1>) and deny the remaining allegations.

118. Plaintiffs admit only that since May 14, 2015 Secret E has offer for sale “SMT-4-Point Micro 11 Chromed Mirrors Compatible With Suzuki Honda Kawasaki Victory Harley Davidson [B00XM7K4UE]” <https://www.amazon.com/motorcycle-4-Point-Mirrors-Kawasaki-Davidson/dp/B00XM7K4UE?th=1> and deny the remaining allegations.

119. Plaintiffs deny.

120. Plaintiffs deny.

121. Plaintiffs lack knowledge of information to admit or deny the allegations in ¶ 121. To the extent that a response is otherwise required, Plaintiffs deny the allegations.

122. Plaintiffs deny.

123. Plaintiffs are not required to admit or deny the allegations in ¶ 123 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

124. Plaintiffs are not required to admit or deny the allegations in ¶ 124 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

125. Plaintiffs are not required to admit or deny the allegations in ¶ 125 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

126. Plaintiffs are not required to admit or deny the allegations in ¶ 126 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

127. Plaintiffs are not required to admit or deny the allegations in ¶ 127 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

ANSWER TO COUNT VI

128. Plaintiffs repeat and incorporate all responses to the foregoing paragraphs as if set forth fully herein.

129. Plaintiffs admit only that Defendant is the assignee and owner of '755 Patent and deny the remaining allegations.

130. Plaintiffs admit.

131. Plaintiffs admit only that since February 20, 2016 HK MOTO has offered for sale its “Claw Style Rearview Mini Mirror For Harley Street Sports Cruiser Chrome New” product (<https://www.amazon.com/Rearview-Mirror-Harley-Street-Cruiser/dp/B01C0SS678>) and that HK

MOTO has offered for sale “HONGK-Claw Style Rearview Mini Mirror Compatible with Harley Street Sports Cruiser Chrome [B01C0SS6SW]” <https://www.amazon.com/Rearview-Mirror-Harley-Street-Cruiser/dp/B01C0SS6SW> and deny the remaining allegations.

132. Plaintiffs admit only that since January 7, 2015, HTTMT has offered for sale its “HTTMT MT377- Claw Style Rearview Mini Mirror Compatible with Harley Street Sports Cruiser Chrome New” product (<https://www.amazon.com/Rearview-Mirror-Harley-Street-Cruiser/dp/B00RY8JMKK> and that since July 16, 2014, HTTMT has offered its “HTTMT MT377- Claw Style Rearview Mini Mirror Compatible with Harley Street Sports Cruiser Chrome New” product (<https://www.amazon.com/Rearview-Mirror-Harley-Street-Cruiser/dp/B00LULIIM>. Plaintiffs deny the remaining allegations.

133. Plaintiffs admit only that since June 11, 2020, Secret E has offered for sale its “SMT-Chrome Claw Raindrop Style Rearview Mini Mirror Compatible With Harley Street Sports Cruiser [P/N: MT377-CHROME2]” <https://www.amazon.com/Chrome-Raindrop-Rearview-Compatible-Cruiser/dp/B08B1WF7H5>. Plaintiffs deny the remaining allegations.

134. Plaintiffs admit only that since December 31, 2014 XKH has offered for sale its “SMT-Claw Style Rearview Mini Mirror Compatible With Harley Street Sports Cruiser Chrome New [B00RNISE9G]” <https://www.amazon.com/SMT-MOTO-Motorcycle-Rearview-Mirror-Cruiser/dp/B00RNISE9G>. Plaintiffs deny the remaining allegations.

135. Plaintiffs deny.

136. Plaintiffs lack knowledge of information to admit or deny the allegations in ¶ 136. To the extent that a response is otherwise required, Plaintiffs deny the allegations.

137. Plaintiffs are not required to admit or deny the allegations in ¶ 137 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

138. Plaintiffs are not required to admit or deny the allegations in ¶ 138 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

139. Plaintiffs are not required to admit or deny the allegations in ¶ 139 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

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140. Plaintiffs are not required to admit or deny the allegations in ¶ 140 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

141. Plaintiffs are not required to admit or deny the allegations in ¶ 141 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

142. Plaintiffs are not required to admit or deny the allegations in ¶ 142 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

143. Plaintiffs are not required to admit or deny the allegations in ¶ 143 as they constitute legal conclusions. To the extent that a response is otherwise required, Plaintiffs deny these allegations.

ANSWER TO COUNT VII

144. Plaintiffs repeat and incorporate all responses to the foregoing paragraphs as if set forth fully herein.

145. Plaintiffs admit only that Defendant is the assignee and owner of '815 Patent and deny the remaining allegations.

146. Plaintiffs deny.

147. Plaintiffs admit.

148. Plaintiffs admit.

149. Plaintiffs admit.

150. Plaintiffs admit only that since at least May 18, 2015, HTTMT has also offered for sale its “HTTMT MT240- Spike Air Cleaner Kits Compatible with 2014 Harley Davidson Electra Glide FLHTCU Chrome” <https://www.amazon.com/HTTMT-Glossy-Cleaner-compatible-touring/dp/B084RPT8RF?th=1>. Plaintiffs deny the remaining allegations.

151. Plaintiffs admit only that since at least March 19, 2015, HTTMT has also offered for sale its “HTTMT MT231C- Triangle Spike Air Cleaner Kits Compatible with 1991-2006 H-D Xl Models Sportstar Chrome” product (<https://www.amazon.com/Triangle-Cleaner-1991-2006-Davidson-Sportstar/dp/B00UWZEY00>) and deny the remaining allegations.

152. Plaintiffs lack knowledge of information to admit or deny the allegations in ¶ 152. To the extent that a response is otherwise required, Plaintiffs deny the allegations.

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DEFENSES

1. One or more of the claims in Defendant's Counterclaims fails to state a claim upon which relief may be granted.

2. Defendant's claims against Plaintiffs are barred, in whole or in part, by the doctrine of laches, waiver, estoppel, bad faith, unclean hands, and/or expiration of statute of limitations and/or statute of repose.

3. Plaintiffs' claims are barred in whole or in part by Plaintiffs' failure to mitigate its damages.

4. Plaintiffs' alleged patents are invalid because, among other things, they are anticipated by or obvious to prior art references.

5. Plaintiffs' alleged patents are unenforceable.

6. Plaintiffs' use of Defendant's alleged marks, if there is any use and if these marks are valid, constitutes fair use and other non-trademark use.

7. Defendant's demand for monetary damages is barred because Defendant provided no actual notice or constructive notice to Plaintiffs.

Date: May 9, 2022

By: /s/Shengmao Mu
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